

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

DOCKET NO. 3:09-cv-00026-W

GARY T. YOUNG,

Plaintiff,

vs.

OFFICE DEPOT, INC.,

Defendant.

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ORDER

THIS MATTER is before the Court *sua sponte* concerning the status of Plaintiff's case and Plaintiff's failure to prosecute his claim.

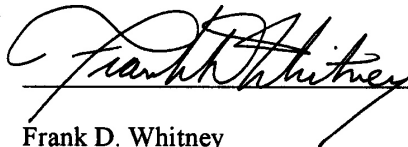
On August 11, 2009, this Court entered a Show Cause Order directing Plaintiff to show why the Complaint should not be dismissed for Plaintiff's failure to prosecute his case. (Doc. No. 17). Like other mailings from the Court, that Order was returned as undeliverable (Doc. No. 18). Plaintiff has not responded to the Show Cause Order, and the time for doing so has long expired.

The Court notes that although it was under no obligation to do so, defense counsel has provided the Court a courtesy copy of an email sent by Plaintiff to defense counsel on August 12, 2009, apprising them of his new contact information. In that email, which is attached to this Order, Plaintiff states that he "will be updating the Courts this week about my relocation." To date, Plaintiff has never submitted to the Court any sort of notification as to his new mailing address.

Accordingly, for the reasons set forth herein and in the Court's Show Cause Order, this matter is hereby DISMISSED WITHOUT PREJUDICE¹ pursuant to Rule 41(b). The Clerk's Office is DIRECTED to send a copy of this Order to the address found in the email sent to defense counsel: Gary T. Young, 534 Newfield Avenue, Bridgeport, CT, 06607.

IT IS SO ORDERED.

Signed: September 21, 2009


Frank D. Whitney
United States District Judge



¹The Court has reviewed the factors set forth in Chandler Leasing Corp. v. Lopez, 669 F.2d 919 (4th Cir.1982), and finds that they do not support the more severe sanction of a dismissal *with prejudice*. See also Herbert v. Saffell, 877 F.2d 267 (4th Cir.1989) (citing Chandler); Faulk v. Dixon, 933 F.2d 1001 (4th Cir. 1991) (unpublished) (noting that lesser sanction of dismissal without prejudice is available in case where the plaintiff fails to update the court as to his current address).